

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE CONCURRENT RESOLUTION 2041

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE II,
CONSTITUTION OF ARIZONA, BY ADDING SECTION 36; RELATING TO DISCRIMINATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona, the
2 Senate concurring:

3 1. Article II, Constitution of Arizona, is proposed to be amended by
4 adding section 36 as follows if approved by the voters and on proclamation of
5 the Governor:

6 36. Discrimination or preferential treatment prohibited;
7 definition

8 Section 36. A. THIS STATE SHALL NOT DISCRIMINATE AGAINST
9 OR GRANT PREFERENTIAL TREATMENT TO ANY INDIVIDUAL OR GROUP ON
10 THE BASIS OF RACE, SEX, COLOR, ETHNICITY OR NATIONAL ORIGIN IN
11 THE OPERATION OF PUBLIC EMPLOYMENT, PUBLIC EDUCATION OR PUBLIC
12 CONTRACTING.

13 B. THIS SECTION SHALL NOT BE INTERPRETED TO:

14 1. PROHIBIT BONA FIDE QUALIFICATIONS THAT ARE BASED ON
15 SEX AND THAT ARE REASONABLY NECESSARY TO THE NORMAL OPERATION OF
16 PUBLIC EMPLOYMENT, PUBLIC EDUCATION OR PUBLIC CONTRACTING.

17 2. PROHIBIT ACTION THAT IS REQUIRED TO BE TAKEN TO
18 ESTABLISH OR MAINTAIN ELIGIBILITY FOR ANY FEDERAL PROGRAM IF
19 INELIGIBILITY WOULD RESULT IN A LOSS OF FEDERAL MONIES TO THIS
20 STATE.

21 3. INVALIDATE ANY COURT ORDER OR CONSENT DECREE THAT IS
22 IN FORCE ON THE EFFECTIVE DATE OF THIS SECTION.

23 C. THE REMEDIES AVAILABLE FOR VIOLATIONS OF THIS SECTION
24 SHALL BE THE SAME, REGARDLESS OF THE INJURED PARTY'S RACE, SEX,
25 COLOR, ETHNICITY OR NATIONAL ORIGIN, AS ARE OTHERWISE AVAILABLE
26 FOR VIOLATIONS OF THEN EXISTING ARIZONA ANTIDISCRIMINATION LAW.

27 D. THIS SECTION IS SELF-EXECUTING. IF ANY PART OR PARTS
28 OF THIS SECTION ARE FOUND TO BE IN CONFLICT WITH FEDERAL LAW OR
29 THE UNITED STATES CONSTITUTION, THIS SECTION SHALL BE
30 IMPLEMENTED TO THE MAXIMUM EXTENT THAT FEDERAL LAW AND THE
31 UNITED STATES CONSTITUTION PERMIT. ANY PROVISION OF THIS
32 SECTION THAT IS HELD TO BE INVALID IS SEVERABLE FROM THE
33 REMAINING PROVISIONS OF THIS SECTION.

34 E. FOR THE PURPOSES OF THIS SECTION, "STATE" INCLUDES
35 THIS STATE, ANY CITY, TOWN OR COUNTY OF THIS STATE, UNIVERSITIES
36 UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS, A
37 COMMUNITY COLLEGE DISTRICT, A SCHOOL DISTRICT, ANY OTHER
38 POLITICAL SUBDIVISION OF THIS STATE OR ANY OTHER GOVERNMENTAL
39 ENTITY THAT IS FORMED UNDER THE LAWS OF THIS STATE.

40 2. The Secretary of State shall submit this proposition to the voters
41 at the next general election as provided by article XXI, Constitution of
42 Arizona.